

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Satellite Cable Services, Inc.)	File No. EB-02-TS-167
)	
Operator of Cable Systems in the States of:)	
)	
Nebraska and South Dakota)	
)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: September 27, 2002**Released: October 4, 2002**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Satellite Cable Services, Inc. ("Satellite Cable") temporary, 36-month waivers of Section 11.11(a) of the Commission's Rules ("Rules") for the 40 cable television systems listed in Attachment A for the two above-captioned states. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations" 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("Second Report and

Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On May 2, 2002, Satellite Cable filed a request for a permanent waiver or a temporary, 36 month waiver of Section 11.11(a) for 40 small, rural cable television systems listed in Attachment A for the two captioned states. In support of its waiver request, Satellite Cable states that the 40 systems each serve between 19 and 839 subscribers. Based on price quotes provided by EAS equipment manufacturers, Satellite Cable estimates that it would cost between \$7,500 and \$10,000 to install EAS equipment at each of these cable television systems for a total cost of \$410,000. Satellite Cable asserts that the cost of installing EAS equipment at these systems will impose a substantial financial hardship on it and provides financial statements for 2001 in support of this assertion. In addition, Satellite Cable submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. Satellite Cable also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations and other sources.

4. Based upon our review of the financial data and other information submitted by Satellite Cable, we decline to issue a permanent waiver of Section 11.11(a) for the 40 cable systems listed in Attachment A. However, we conclude that temporary, 36-month waivers of Section 11.11(a) for these 40 systems are warranted.⁹ In particular, we find that the estimated \$410,000 cost of EAS equipment for these small cable systems could impose financial hardship on Satellite Cable.

Order”).

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

⁹ The waivers will extend 36 months from October 1, 2002, until October 1, 2005. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹⁰ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹¹

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹² Satellite Cable Services, Inc. **IS GRANTED** waivers of Section 11.11(a) of the Rules until October 1, 2005 for each of the 40 cable television systems listed in Attachment A.

7. **IT IS FURTHER ORDERED** that Satellite Cable Services, Inc. place a copy of these waivers in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Satellite Cable Services, Inc., Trent A. Swanson, Esq., Cutler & Donahoe, LLP, 100 North Phillips Avenue, 9th Floor, Sioux Falls, South Dakota 57104-6725.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

¹⁰ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹¹ One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹² 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A

Satellite Cable Services, Inc.

Cable Systems:**Temporary Waiver Granted Until:****Nebraska**

Atkinson, Nebraska

October 1, 2005

South Dakota

Armour, South Dakota

October 1, 2005

Astoria, South Dakota

October 1, 2005

Avon, South Dakota

October 1, 2005

Britton, South Dakota

October 1, 2005

Burke/Gregory, South Dakota

October 1, 2005

Bryant, South Dakota

October 1, 2005

Carthage, South Dakota

October 1, 2005

Chester, South Dakota

October 1, 2005

Clark, South Dakota

October 1, 2005

Clear Lake, South Dakota

October 1, 2005

Conde, South Dakota

October 1, 2005

Cresbard, South Dakota

October 1, 2005

Eden, South Dakota

October 1, 2005

Edgemont, South Dakota

October 1, 2005

Faulkton, South Dakota

October 1, 2005

Florence, South Dakota

October 1, 2005

Frankfort, South Dakota

October 1, 2005

Gary, South Dakota

October 1, 2005

Henry, South Dakota

October 1, 2005

Lake Andes, South Dakota

October 1, 2005

Mellette, South Dakota

October 1, 2005

New Effington, South Dakota

October 1, 2005

Oldham, South Dakota

October 1, 2005

Pierpont, South Dakota

October 1, 2005

Platte, South Dakota

October 1, 2005

Ramona, South Dakota

October 1, 2005

Raymond, South Dakota

October 1, 2005

Reville, South Dakota

October 1, 2005

South Shore, South Dakota

October 1, 2005

Summit, South Dakota

October 1, 2005

Tabor, South Dakota

October 1, 2005

Toronto, South Dakota

October 1, 2005

Trent, South Dakota

October 1, 2005

Satellite Cable Services, Inc.

Cable Systems:

Tripp, South Dakota
Tyndall, South Dakota
Wagner, South Dakota
Wentworth, South Dakota
West Whitlock, South Dakota
Willow Lake, South Dakota

Temporary Waiver Granted Until:

October 1, 2005
October 1, 2005
October 1, 2005
October 1, 2002
October 1, 2005
October 1, 2005